

## Office of the Secretary of Labor

## § 15.6

(3) If the prognosis reveals the necessity for future treatment, a statement of expected expenses for such treatment.

(4) If a claim is made for loss of time from employment, a written statement from his or her employer showing actual time lost from employment, whether he or she is a full or part-time employee, and wages or salary actually lost.

(5) If a claim is made for loss of income and the claimant is self-employed, documentary evidence showing the amount of earnings lost. For example, income tax returns for several years prior to the injury in question and the year in which the injury occurred may be used to indicate or measure lost income; a statement of how much it did or would cost the claimant to hire someone else to do the same work he or she was doing at the time of injury might also be used in measuring lost income.

(6) Any other evidence or information which may have a bearing on either the responsibility of the United States for the personal injury or the damages claimed.

(b) *Death.* In support of a claim based on death, the claimant may be required to submit the following evidence or information:

(1) An authenticated death certificate or other competent evidence showing cause of death, date of death, and age of the decedent.

(2) Decedent's employment or occupation at the time of death, including his or her monthly or yearly salary or earnings (if any), and the duration of his or her last employment or occupation.

(3) Full name, address, birth date, kinship and marital status of the decedent's survivors, including identification of those survivors who were dependent for support upon the decedent at the time of his or her death.

(4) Degree of support afforded by the decedent to each survivor dependent upon him or her for support at the time of his or her death.

(5) Decedent's general physical and mental condition before his or her death.

(6) Itemized bills for medical and burial expenses incurred by reason of the

incident causing death, or itemized receipts of payment for such expenses.

(7) If damages for pain and suffering prior to death are claimed, a physician's detailed statement specifying the injuries suffered, duration of pain and suffering, any drugs administered for pain, and the decedent's physical condition in the interval between injury and death.

(8) Any other evidence or information which may have a bearing on either the responsibility of the United States for the death or damages claimed.

(c) *Property damages.* In support of a claim for injury to or loss of property, real or personal, the claimant may be required to submit the following evidence or information with respect to each item of property:

(1) Proof of ownership.

(2) A detailed statement of the amount claimed.

(3) An itemized receipt of payment for necessary repairs or itemized written estimates of the cost of such repairs.

(4) A statement listing date of purchase, purchase price, and salvage value where repair is not economical.

(5) Any other evidence or information which may have a bearing on either the responsibility of the United States for the injury to or loss of property or the damages claimed.

### § 15.6 Administrative action.

(a) *Investigation.* When an organizational unit learns of an incident that reasonably can be expected to result in an allegation of harm caused to an individual or organization by an alleged negligent act or omission by an employee of that organizational unit or when it learns of an administrative claim or of litigation alleging such harm, it has the responsibility to fully investigate the incident and to take all actions necessary to preserve all relevant documents and other evidence. Each organizational unit should institute appropriate procedures to ensure that notification of such incidents are reported to the office responsible for ensuring that evidence is preserved and investigation undertaken.

(b) *Notification.* Upon receipt of an administrative claim under the Act or of notice of litigation seeking damages

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for an alleged negligent act or omission of an employee of the Department acting within the scope of his or her employment, the Office of the Solicitor shall notify the organizational unit responsible for the activity which gave rise to the claim or litigation and shall provide a copy of the administrative claim or the claim filed in the litigation.

(c) *Administrative Report.* (1) Upon receiving notification of an administrative claim or litigation, the organizational unit or units involved in the circumstances of the claim or litigation shall be responsible for preparing an Administrative Report and forwarding it to the Office of the Solicitor in a timely manner. The Administrative Report shall be in the form of a single memorandum in narrative form with attachments. It should contain all of the following elements, unless permission is obtained from the Office of the Solicitor to dispense with a particular element:

(i) a brief explanation of the organization and operation of the program involved including statutory authority and applicable regulations;

(ii) a complete description of the events which gave rise to the claim or litigation, including a specific response to every allegation in the claim or litigation;

(iii) any information available regarding the questions of whether the claimant or plaintiff actually suffered the harm alleged in the claim or litigation and what individual or organization caused any harm which appears to have occurred;

(iv) any information available regarding the damages claimed;

(v) any policy reasons which the organizational unit wishes to advance for or against settlement of the claim or litigation; and

(vi) details of any claims the Department may have against the claimant or plaintiff, whether or not they appear to be related to the subject matter of the claim or litigation.

(2) A copy of all documents relevant to the issues involved in the claim or litigation should be attached to each copy of the Administrative Report. Original records should not be forwarded to the Office of the Solicitor

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unless specifically requested. They should be preserved, however, and remain available for litigation if necessary.

(3) Organizational units should ensure that all Administrative Reports are either prepared or reviewed by an official of the organizational unit who was not personally involved in the incident in question prior to filing of the claim or suit.

(d) *Litigation.* During the course of any litigation, organizational units are responsible for providing assistance to the Office of the Solicitor in responding to discovery requests such as interrogatories and requests to produce documents, for providing assistance in analyzing factual and program issues, for providing witnesses for depositions and trials, and for assistance in producing affidavits and exhibits for use in the litigation.

### § 15.7 Determination of claims.

(a) *Authority to consider, ascertain, adjust, determine, compromise and settle claims.* The Counsel for Claims and Compensation shall have the authority to consider, ascertain, adjust, determine, compromise and settle claims pursuant to the Federal Tort Claims Act which involve an alleged negligent or wrongful act or omission of an employee whose official duty station is the Department's national office in Washington, D.C., or which exceed \$25,000 in amount, or which involve a new precedent, a new point of law, or a question of policy. Regional Solicitors and the Associate Regional Solicitors are authorized to consider, ascertain, adjust, determine, compromise and settle, claims arising in their respective jurisdictions pursuant to the Federal Tort Claims Act which do not exceed \$25,000 in amount and which do not involve a new precedent, new point of law, or a question of policy.

(b) *Payment.* Any award, compromise, or settlement in the amount of \$2,500 or less made pursuant to this section shall be paid by the Secretary of Labor out of appropriations available to the Department. Payment of an award, compromise, or settlement in an amount in excess of \$2,500 made pursuant to this subpart shall be made in accordance with 28 CFR 14.10.